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No. 99-935

IN THE

# Supreme Court of the United States

**MICHAEL CHANDLER**, individually and as father and next friend of **JESSE CHANDLER**,

*Petitioners,*

*vs.*

**DON SIEGELMAN**, in his official capacity as Governor of the State of Alabama and as President of the State Board of Education, et al.,

*Respondents.*

On Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

## BRIEF IN OPPOSITION

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## QUESTIONS PRESENTED

1. Whether the court of appeals correctly held that public schools should treat genuinely student-initiated religious speech on equal terms with genuinely student-initiated secular speech?

2. Whether this Court should deny review of the court of appeals' nonfinal judgment vacating and remanding an injunction for redrafting where the district court will then be best situated to tailor any new injunction to reflect, inter alia:

   a. the concrete facts and circumstances of the case;
   b. the intervening mootness of many of plaintiffs' challenges; and
   c. any relevant aspects of this Court's forthcoming decision in *Santa Fe Independent School District v. Doe*, No. 99-62.

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## STATEMENT OF THE CASE

Petitioner Michael Chandler brought suit on his own behalf and on behalf of his son Jesse, a minor. Chandler and his son challenged the constitutionality of both an Alabama statute, Ala. Code § 16-1-20.3, and alleged religious practices in the DeKalb County schools, under the First and Fourteenth Amendments to the United States Constitution. Chandler brought suit under 42 U.S.C. § 1983, naming as defendants in their official capacities the Governor of Alabama, the Attorney General of Alabama, the Alabama State Superintendent of Education, the members of the Alabama State Board of Education, the DeKalb County Superintendent of Education, and the members of the DeKalb County Board of Education. Chandler requested a declaration of the unconstitutionality of the Alabama statute and the challenged religious practices in the schools, an injunction prohibiting the challenged religious practices in the schools, and an award of attorney fees. Complaint ["Cplt."] at 18-19. Chandler did *not* seek damages. *Id. See also* Plaintiffs' Report on Status of Protective Order for Pseudonymous Pleading, Joint Motion to Vacate Trial Setting and Agreement Regarding Voluntary Cessation, and Joint Stipulations of Fact, p. 2 ("As the plaintiffs have stressed to various counsel, this suit is for injunctive relief, not damages").

At the time Chandler filed suit, he was an assistant principal at Valley Head School, a school operated by respondent DeKalb County Board of Education. Cplt. at 3. (Michael Chandler has since retired from that position.[1])

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[1]Chandler retired pursuant to a settlement agreement in a separate, employment-related lawsuit. *Chandler v. DeKalb County School Board*, (continued...)

Chandler's son Jesse was a seventh grade student at Fyffe School, a school operated by respondent DeKalb County Board of Education, at the time suit was filed on February 1, 1996. Cplt. at 3. He is now presumably in the eleventh grade.

On March 12, 1997, the district court granted partial summary judgment for Chandler, holding unconstitutional the challenged state statute, § 16-1-20.3. Pet. App. C1-C43. No party pursued an appeal from that decision.

On October 29, 1997, the district court issued a Permanent Injunction. Pet. App. D1-D19. This injunction imposed a complex set of restrictions, exceptions to the restrictions, and exceptions to the exceptions. Pet. App. D3-D12. For example, in paragraph 6(a), the injunction purported to restrict only "school organized or officially sanctioned religious activity in the classrooms," but nevertheless applied "regardless of whether the activity is initiated, led by, or engaged in by students." Pet. App. D4. The same provision explicitly permitted students "to quietly engage in religious activity during non-instructional times," but only "so long as it does not unduly call attention thereto and so long as it does not interfere with the rights of other students to freely pass thereby or to avoid its imposition upon themselves." *Id.* D5.

Certain provisions of the injunction allowed DeKalb County school officials to treat student religious expression evenhandedly with other student expression, *e.g.*, *id.* D5, D12

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[1](...continued)
No. CV 96-PT-1000-M (N.D. Ala.). As part of that settlement, Chandler also agreed not to seek future employment of any nature with the DeKalb County School System.

(student religious literature distribution subject to same time, place, and manner restrictions as student distribution of nonreligious materials). Elsewhere, however, the injunction commanded DeKalb to impose discriminatory restrictions only on private religious expression. *Id.* D4-D11. For example, students could recite secular texts or sing secular songs at school-sponsored talent shows but could not use material with a religious content or viewpoint. Pet. App. D8-D9 (para. 6(d)). Student graduation speakers could expound at length on secular subjects or the gratitude due parents but could not give more than a "brief personal expression . . . which contains religious references," Pet. App. D5-D6 (para. 6(b)).

In view of its earlier opinion overturning the challenged state statute and its permanent injunction addressing the challenged religious practices, the district court then vacated a trial setting for the case as unnecessary.

On November 12, 1997, the district court issued findings of fact and conclusions of law in a Supplemental Opinion and Order. Pet. App. E1-E67. The same day, the district court granted partial summary judgment for Chandler and made accompanying findings of fact and conclusions of law in a Memorandum Opinion and Order. Pet. App. F1-F26.

Respondents[2] appealed from the Permanent Injunction, the Supplemental Opinion and Order, and the Memorandum Opinion and Order.

On appeal, respondents contested only certain aspects of the *remedy* the district court selected. Respondents did not appeal the district court's invalidation of the challenged state statute. Nor did respondents contest on appeal the district court's findings that the DeKalb County defendants had previously engaged in unconstitutional officially organized or sponsored religious activities. Rather, the respondents challenged on appeal only specific portions of the Permanent Injunction. *See* Pet. App. A4-A6.

In particular, respondents focused their appeal upon those portions of the Permanent Injunction that forbade DeKalb County from "permitting" various religious expressive activities by students and other nonschool personnel. Respondents did not contend that students have an affirmative right to engage in religious speech even where secular student speech would not be permitted. Instead, respondents argued that the injunction improperly required DeKalb to impose unconstitutionally *discriminatory* restrictions on private religious expression. Respondents also contended that the injunction's mix of broad restrictive language and ambiguously defined "safe harbor" exceptions (and exceptions to the exceptions) rendered the injunction impermissibly vague. Finally, respondents argued

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[2]In this Brief in Opposition, "respondents" refers to all of the respondents except the Governor of Alabama. Then-Governor Fob James filed a separate appeal, which the Eleventh Circuit rejected, Pet. App. A4. The current Governor, Don Siegelman, has not sought review of that decision.

that considerations of mootness and lack of standing doomed some (but not all) of plaintiffs' requests for prospective injunctive relief.

A panel of the U.S. Court of Appeals for the Eleventh Circuit unanimously vacated the Permanent Injunction. Pet. App. A1-A27. The panel held that "genuinely student-initiated religious speech . . . is fully protected by both the Free Exercise and the Free Speech Clauses of the Constitution." Pet. App. A16. The panel condemned the "discriminatory suppression of student-initiated religious speech," *id.* A15; *accord id.* A14, A25, while noting that a "school may impose the same reasonable restrictions on the time, place, and manner of religious speech as it does on secular student speech," *id.* A25. Because the Permanent Injunction forbade DeKalb from "permitting" students to "speak religiously," the panel concluded the injunction unconstitutionally required DeKalb to engage in discriminatory suppression of student religious speech. *Id.* A26-27. Accordingly, the panel vacated the Permanent Injunction and remanded for further proceedings. *Id.* A27. "We do not undertake to re-write the Permanent Injunction," the panel explained. "The district court is in the best position to do that." *Id.*

Given its disposition of the appeal, the panel had no occasion to address respondents' vagueness arguments or to examine, in the first instance, to what extent considerations of mootness and standing might limit the relief Chandler could obtain.

The Eleventh Circuit denied rehearing and rehearing en banc. *Id.* G1-G2. At Chandler's request, however, the Eleventh

Circuit stayed its mandate pending the filing and disposition of Chandler's petition for certiorari.

## REASONS FOR DENYING THE WRIT

### I. THE QUESTIONS FOR WHICH PETITIONERS SEEK REVIEW ARE NOT PRESENTED IN THIS CASE.

As an initial matter, this Court should deny review because the "Questions Presented," for which petitioners seek review, are simply not presented by this case.

In Question One, petitioners attack the constitutionality of "group prayer before a captive audience of K-12 students," Pet. at i. This question is not presented. Neither the Permanent Injunction under review, nor the Eleventh Circuit opinion vacating that injunction, purport to address the distinct issues of either "group prayer" or "captive audiences." Rather, the Permanent Injunction restricted religious speech by *any* student, whether engaged in as an individual or together with others. The injunction was also not limited to "captive" situations. The Eleventh Circuit, overturning the district court, merely directed implementation of the neutrality principle for genuinely student-initiated speech. Petitioners' phrasing of Question One, then, is a tendentious characterization of a narrow hypothetical, and not a fair description of any question properly presented. Furthermore, Michael Chandler and his *eleventh-grade* son lack standing to seek prospective relief regarding *grades K-10*; in addition, therefore, petitioners cannot press Question One, as phrased, for jurisdictional reasons.

In Question Two, petitioners accuse the Eleventh Circuit of approving school officials' creation of a "special platform for prayer in the schools" for students and nonstudents. Pet. at i. The Eleventh Circuit did nothing of the kind. On the contrary, the panel expressly condemned as unconstitutional any "policy which 'permits' private parties to speak, but then limits their speech to prayer or other devotional speech." Pet. App. A9-A10. According to the court below, "the State's decision to create an exclusively religious medium . . . violates the Establishment Clause." *Id.* A10 (emphasis omitted).

In sum, neither of the two questions petitioners pose are properly presented here.

## II. THE DISTRICT COURT SHOULD BE PERMITTED THE OPPORTUNITY TO REDRAFT THE INJUNCTION IN THE FIRST INSTANCE.

The decision of the Eleventh Circuit in this case is nonfinal. The court of appeals vacated the Permanent Injunction but did not "undertake to re-write" that injunction. Pet. App. A27. The court of appeals recognized that "[t]he district court is in the best position to do that [i.e., rewrite the injunction]." *Id.* Accordingly, the court of appeals remanded for further proceedings. *Id.*

This Court should deny certiorari to allow the district court the opportunity to redraft any injunction that might still be warranted. This approach makes eminent sense for several reasons.

*First*, the injunction has to be narrowed in significant respects in any event, which will eliminate much of the scope of the controversy. It would be premature and an exercise of advisory opinion-making for this Court to review constitutional issues that likely will be removed from the case on remand.

- Michael Chandler, the lead petitioner, has retired from his position as assistant principal at a DeKalb County high school. Hence, his only basis for seeking prospective relief is as a parent.[3] Michael Chandler's son Jesse, meanwhile, is now an eleventh grader. Any claims for prospective relief -- which is all petitioners seek -- based upon alleged unconstitutional practices in lower grades are now moot. *See, e.g., Joint School District No. 241 v. Harris*, 515 U.S. 1154 (1995) (vacating and remanding for dismissal, as moot, Establishment Clause challenge to graduation prayer, apparently because student plaintiffs graduated during pendency of case).[4]

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[3]Michael Chandler also alleged that he was a taxpayer, Cplt. at 3, but he did not allege or prove that the practices challenged as unconstitutional necessitated any expenditures of tax funds. Consequently, Chandler lacks taxpayer standing. *See Crampton v. Zabriskie*, 101 U.S. 601, 609 (1880) (taxpayer standing requires challenge to a genuine "disposition of the [government] moneys"); *Flast v. Cohen*, 392 U.S. 83, 102 (1968) (for taxpayer standing, it "will not be sufficient to allege an incidental expenditure of tax funds in the administration of [government]"); *Doremus v. Board of Educ.*, 342 U.S. 429, 431-35 (1952) (incidental expenditures insufficient for taxpayer standing).

[4]For example, there is no suggestion that Jesse will ever again encounter Ms. Carroll, his fifth and sixth grade teacher who allegedly solicited student prayer. Cplt. ¶ 16; M. Chandler Aff. ¶ 17. Likewise, Jesse will never more encounter the Gideon's distribution of Bibles to the fifth grade classes. Cplt. ¶ 42; M. Chandler Aff. ¶¶ 21-25. The Gideons have only distributed

(continued...)

- The Permanent Injunction improperly granted relief at *all* DeKalb schools, regardless of where Jesse was in attendance. The excessive scope of this relief must be addressed on remand. Lack of Article III standing bars Jesse from seeking relief for activities that he has neither witnessed nor is likely to witness. Thus, Jesse cannot pursue relief at schools he does not attend. Relief for Jesse for schoolday activities must be limited to Fyffe School;

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[4](...continued)
to the fifth and twelfth grade classes. Cplt. ¶ 44; M. Chandler Aff. ¶ 24. Only the twelfth grade lies ahead for Jesse, and a new DeKalb policy precludes Gideon distribution of Bibles in twelfth grade (and other grade) classrooms. *See* "Distribution of Literature -- Student Rights and Protection" (R. Supp. 1-240, Ex. A) (forbidding "the distribution by . . . nonschool individuals of commercial, political, religious, or promotional materials to students on public school property"); Order (R. Supp. 1-260-1 to 2) (approving policy). Monthly 4-H meetings are held for elementary and junior high school students. Cplt. ¶ 30; M. Chandler Aff. ¶ 26. Concerns regarding these meetings, Cplt. ¶ 29; M. Chandler Aff. ¶ 27-28, became moot when Jesse finished ninth grade in the spring of 1998. Jesse's objection to the D.A.R.E. program for fifth graders, Cplt. ¶¶ 25-27; M. Chandler Aff. ¶¶ 29-32, likewise presents no injury likely to recur. There is no indication that the December 1994 PTO incident -- the coincidence of Jesse's school concert band playing at a meeting which was opened by a prayer, Cplt. ¶ 28; M. Chandler Aff. ¶¶ 34-36 -- is ever likely to recur. The same goes for the two incidents in 1995 in which Jesse received flyers about religious programs or events. Cplt. ¶¶ 45-46; M. Chandler Aff. ¶¶ 37-39.

In sum, the only matters, concerning Jesse, for which there would be any likelihood of recurrence, appear to be prayers at football games he attends, Cplt. ¶ 19; M. Chandler Aff. ¶ 15, graduation prayers at Fyffe School (the school Jesse was attending, Cplt. ¶ 2), Cplt. ¶ 22; M. Chandler Aff. ¶ 4, and special meeting times or assemblies of Bible clubs at Fyffe School, Cplt. ¶ 49; M. Chandler Aff. ¶¶ 42-44. As to all other matters, mootness precludes relief. Moreover, there is no apparent reason why Jesse would have standing to challenge the Bible club meeting times.

relief as to meetings or football games must be limited to those events that involve the Fyffe School Concert Band (of which Jesse was a member) or a Fyffe football team (whose games Jesse attended), or other events at which Jesse is likely to be in attendance. Jesse cannot claim concrete injury from activities at which he was not and will not likely be present. "[P]sychic satisfaction is not an acceptable Article III remedy because it does not redress a cognizable Article III injury." *Steel Co. v. Citizens for a Better Environment*, 118 S. Ct. 1003, 1019 (1998).

- The Permanent Injunction is vague in many respects and requires redrafting for clarity. Many examples could be cited. *E.g.*, Pet. App. D5 (allowing students to engage in religious activity only if they do so "quietly" and if the activity "does not unduly call attention thereto"); *id.* D6 (allowing student speakers to include in a graduation address only a "brief personal expression . . . which contains religious references"). (The district court expended considerable ink attempting to explain that its injunction did not mean what its terms apparently stated, Pet. App. B28-B91, and begrudgingly conceded that, at least in part, the injunction "may not be sufficiently narrowly tailored," *id.* B42 n.24.)

*Second*, the district court is best situated to make the initial determination of how to redraft the injunction. Standing, mootness, and vagueness considerations all have factual dimensions as well as legal dimensions. The district court -- unlike a reviewing court -- can take additional evidence on these issues. The district court can then decide what, if any, prospective relief would represent a properly tailored response

to the specific factual circumstances and remaining legal controversies. At that point, any party considering itself aggrieved could seek further review.

*Third*, Supreme Court review at the present stage would require this Court to address issues not yet addressed or decided below. The Eleventh Circuit did not reach any of the standing, mootness, or vagueness arguments -- by vacating the injunction in its entirety and remanding, the court of appeals did not need to reach these issues. But to uphold the Permanent Injunction -- the relief petitioners seek -- this Court would have to confront and resolve these additional objections to the Permanent Injunction. In particular, this Court would first need to address the threshold jurisdictional questions of standing and mootness. Given that resolution of these matters should sharply limit the scope of the legal controversy, it makes little sense to grant review at the present stage of proceedings.

*Fourth*, the district court will be free to apply on remand any pertinent guidance from intervening decisions of higher courts. As noted above, *supra* note 4, the remaining controversy within federal subject matter jurisdiction appears to consist largely, perhaps entirely, of the constitutionality of student-initiated religious expression at football games and the constitutionality of student-initiated religious expression at graduation ceremonies. This Court is currently addressing the former issue in *Santa Fe Independent School District v. Doe*, No. 99-62, and the Eleventh Circuit (the circuit from which this case arises) is currently addressing the latter issue *en banc* in *Adler v. Duval County School Board*, 174 F.3d 1236, 1271 (11th Cir. 1999). The district court will shortly have the benefit of both these rulings, which the district court obviously can and should

consider when redrafting the injunction on remand. No grant of review is necessary to preserve the district court's ability to take these forthcoming rulings fully into account.

In sum, the injunction at issue has been remanded for redrafting. On remand, the district court will need to address the impact of mootness, standing, and vagueness concerns as well as the Eleventh Circuit's opinion below and the forthcoming opinions in *Santa Fe* and *Adler*. Supreme Court review at this point would be premature.

## III. THE DECISION OF THE ELEVENTH CIRCUIT FAITHFULLY APPLIES THIS COURT'S PRECEDENTS.

The opinion of the Eleventh Circuit in this case faithfully applies this Court's precedents under the First Amendment's speech and religion clauses. Petitioners' attempt to characterize the decision below in a contrary fashion represents a serious distortion and misreading of that decision.

The precise question before the Eleventh Circuit was whether the district court erred by ordering the DeKalb County schools to impose discriminatory restrictions on private religious speech (primarily student speech). Pet. App. A13-A14. The Eleventh Circuit properly rejected the district court's approach and held that school officials must treat genuinely student-initiated religious speech evenhandedly with student-initiated non-religious speech. *Id.* A14-A27. This is no more than a straightforward application of this Court's many precedents upholding equal access for, and government neutrality toward, private religious expression. *E.g.*, *Everson*

*v. Board of Educ.*, 330 U.S. 1, 18 (1947); *Board of Educ. v. Mergens*, 496 U.S. 226 (1990); *Zobrest v. Catalina Foothills School Dist.*, 509 U.S. 1 (1993).

The Eleventh Circuit did *not* hold that school facilities are public fora, contrary to petitioners' assertion, Pet. at 19, 23, 25. Rather, the Eleventh Circuit noted that *even in nonpublic fora*, it is unconstitutional to impose viewpoint-discriminatory restrictions on private speakers. Pet. App. A25.

The Eleventh Circuit did *not* hold that schools must allow religious speech by students or nonstudents, contrary to petitioners' assertion, Pet. at 11, 15, 21 n.19, 25. Rather, the Eleventh Circuit merely held that, if and when school officials permit genuinely student-initiated nonreligious speech, those officials must treat private religious speech evenhandedly. As the court of appeals explained:

> A student's right to speak religiously is not . . . without limit. The school may impose the same reasonable restrictions on the time, place, and manner of religious speech as it does on secular student speech.

Pet. App. A25.

The Eleventh Circuit did *not* proscribe "only prayer led by school officials," contrary to petitioners' assertion, Pet. at 18. Nor did the Eleventh Circuit limit the category of "state action" to speech "initiated by school officials," contrary to petitioners' assertion, Pet. at 25. Rather, the Eleventh Circuit held that the Establishment Clause proscribes a range of activities that it deemed to fall within the scope of "state action," including

- state creation of an exclusively religious forum for private speakers, Pet. App. A10; and,

- active endorsement, encouragement, or participation by the state regarding student religious speech, Pet. App. A24 & n.19.

In sum, petitioners misleadingly attempt to depict the decision below as extreme and outrageous, as if the ruling somehow allowed would-be religious speakers the right to burst into classrooms and lead prayer while the teacher cowered in the corner. Quite to the contrary, the decision below gives genuinely private religious speech no greater privilege than genuinely private nonreligious speech.

## IV. THERE IS NO CONFLICT IN THE CIRCUITS WARRANTING REVIEW.

Petitioners assert a "direct conflict" between the decision below and the decisions of other circuits. This is not accurate. The only decision that conflicts with the decision below is the Fifth Circuit's decision in *Doe v. Santa Fe Independent School District*, 168 F.3d 806 (5th Cir.), *cert. granted*, 120 S. Ct. 494 (1999). The conflict between *Doe v. Santa Fe* and the decision below is limited to the issue of student-initiated prayer at football games, and this Court has already granted certiorari on that precise question in the Fifth Circuit case, *see Santa Fe Independent School District v. Doe*, No. 99-62.

A. The Conflict with *Doe v. Santa Fe* Does Not Warrant Review.

The solitary conflict with the Fifth Circuit's decision in *Doe v. Santa Fe* does not warrant Supreme Court review. This Court has already granted certiorari in *Santa Fe*, and the Eleventh Circuit has remanded the present case for further proceedings. This combination of factors negates any reason for certiorari. If this Court reverses in *Santa Fe*, then the conflict between *Santa Fe* and the decision below vanishes. On the other hand, if this Court affirms, modifies, or takes some other action in *Santa Fe*, the district court in the present case is perfectly capable of incorporating this Court's decision into its analysis on remand.

B. The Decision Below Does Not Conflict with Any Other Circuits.

Petitioners assert a conflict between the Eleventh Circuit's decision in this case and various decisions of other circuits. These supposed conflicts are specious, as the Eleventh Circuit itself already explained. *See* Pet. App. A9-A10, A23 & n.18. None of these other cases contradict the principle set forth by the Eleventh Circuit: that schools may not constitutionally impose *discriminatory* restrictions on *genuinely student-initiated* religious speech.

Thus, in *Karen B. v. Treen*, 653 F.2d 897 (5th Cir. 1981), *aff'd*, 455 U.S. 913 (1982), the challenged statute authorized prayer, and only prayer, 653 F.2d at 899. The statute challenged in *Ingebretsen v. Jackson Public School District*, 88 F.3d 274, 277 (5th Cir.), *cert. denied*, 519 U.S. 965 (1996),

only authorized invocations, benedictions, and prayers. The practice challenged in *Collins v. Chandler Unified School District*, 644 F.2d 759, 760-61 (9th Cir. 1981), was to the same effect.

None of these cases advance Chandler's arguments; in all of these cases, the school system "allowed" religious speech, but only after the school system itself mandated that the speech would be religious. These cases are therefore analogous to the hypothetical case of a school that allows *only religious clubs* to meet in classrooms after hours. The flaw in such a scheme is not the *allowance* of private religious speech, *see Board of Educ. v. Mergens*, 496 U.S. 226 (1990), but the *favoring*, by the government, of private religious speech, *see* Pet. App. A9-A10.[5]

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[5]In *ACLU v. Blackhorse Pike Regional Board of Education*, 84 F.3d 1471 (3d Cir. 1996) (en banc), the school policy gave the student body the option of voting explicitly for prayer, *id.* at 1475. The Third Circuit faulted this policy for enabling a plurality of the student body to compel prayer at graduation. *Id.* at 1477. (This contrasts sharply with a policy, like the "football policy" at issue in *Santa Fe*, which leaves the student speaker total and final discretion whether to deliver a secular or religious message. Such a policy accommodates student freedom of expression and does not permit a majority to command implementation of its religious desires.) The present case concerns no such "vote-for-prayer" policy.

In *Berger v. Renssalaer Central School Corporation*, 982 F.2d 160 (7th Cir.), *cert. denied*, 508 U.S. 911 (1993), school policy gave the principal and superintendent total discretion to grant or deny permission to outside speakers to distribute literature or publications to students, 982 F.2d at 1162-63. Such discretion is no guarantee of neutrality, and in fact can mask its opposite. The injunction in this case, by contrast, *required* school officials to discriminate against religious expression.

In *Stein v. Oshinsky*, 348 F.2d 999 (2d Cir.), *cert. denied*, 382 U.S. 957 (1965), the Second Circuit assumed that *permitting* prayers would *not* (continued...)

## CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,


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[5](...continued)
violate the Establishment Clause, and simply held that the Free Speech and Free Exercise Clauses conferred no *special right* to interrupt the school day with prayer, 348 F.2d at 1001-02.

Finally, in *Doe v. Duncanville Independent School District*, 70 F.3d 402 (5th Cir. 1995), the Fifth Circuit *allowed* students to pray, individually or in groups, so long as school officials did not participate.